

**Assembly Bill No. 414**

\_\_\_\_\_

Passed the Assembly    August 30, 2001

\_\_\_\_\_  
*Chief Clerk of the Assembly*

\_\_\_\_\_

Passed the Senate    August 23, 2001

\_\_\_\_\_  
*Secretary of the Senate*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2001, at \_\_\_\_\_ o'clock \_\_M.

\_\_\_\_\_  
*Private Secretary of the Governor*

└

## CHAPTER \_\_\_\_\_

An act to amend Section 25157.8 of the Health and Safety Code, relating to hazardous waste, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

AB 414, Dutra. Hazardous waste disposal: lead: nickel: copper.

(1) Existing law prohibits, until July 1, 2003, any person from disposing of waste that contains specified concentrations of lead, copper, or nickel to land, except as specified, until the appropriate California regional water quality control board amends the solid waste facility's waste discharge requirements and the appropriate local enforcement agency revises the solid waste facility's permit.

Existing law also prohibits, until July 1, 2003, any person from disposing hazardous waste to land in any facility that is not a class I hazardous waste disposal facility, until the Department of Toxic Substances Control issues a variance, the appropriate California regional water quality control board amends the solid waste facility's waste discharge requirements, and the appropriate local enforcement agency revises the solid waste facility's permit. Existing law excludes, from that land disposal prohibition, wastes disposed pursuant to a variance issued before August 21, 1998, or pursuant to a variance for the disposal of special waste. A violation of the hazardous waste control laws is a crime.

This bill would extend the date of the repeal of these prohibitions until July 1, 2006, thereby imposing a state-mandated local program by extending the operation of a crime.

The bill would additionally exempt the wastes that are excluded under existing law from the hazardous waste land disposal prohibition, from the prohibition on the disposal of wastes containing specified concentrations of lead, copper, or nickel. The bill would also exempt, from both of these prohibitions, wastes disposed of pursuant to a variance issued by the department to a state or local agency for the disposal of lead-contaminated soils, if the disposal is only within the operating right-of-way of an existing highway. The bill would specify that this exemption applies to lead-contaminated soil that is moved from one project



to another, only if the lead-contaminated soil is managed, as specified.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(3) The bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 25157.8 of the Health and Safety Code is amended to read:

25157.8. (a) Except as provided in subdivision (c), on and after January 1, 1999, no person shall dispose waste that contains total lead in excess of 350 parts per million, copper in excess of 2500 parts per million, or nickel in excess of 2000 parts per million to land at other than a class I hazardous waste disposal facility, unless the waste is disposed at the site of generation pursuant to express approval of the regional water quality control board granted prior to August 21, 1998, and the waste was classified as nonhazardous at that time, until both of the following occur:

(1) The appropriate California regional water quality control board has amended the solid waste facility's waste discharge requirements to specifically allow disposal of the waste.

(2) The appropriate local enforcement agency has revised the solid waste facility permit of the facility to specifically allow this disposal pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code.

(b) Except as provided in subdivision (c), no person shall dispose any material to land at other than a class I hazardous waste disposal facility, if the material is regulated as a hazardous waste by the department, until all of the following have occurred:

(1) The department has issued a variance pursuant to Section 25143 to specifically allow disposal of the material to a disposal facility other than a class I hazardous waste disposal facility.



(2) The appropriate California regional water quality control board has amended the solid waste facility's waste discharge requirements to specifically allow disposal of the material.

(3) The appropriate local enforcement agency has revised the solid waste facility permit of the facility at which the material is proposed to be disposed to specifically allow this disposal pursuant to Chapter 3 (commencing with Section 44001) of Part 4 of Division 30 of the Public Resources Code.

(c) This section does not apply to any of the following:

(1) Wastes that are disposed of pursuant to a variance issued by the department prior to August 21, 1998.

(2) Wastes that are disposed of pursuant to a variance issued by the department and that the department classified and managed as a "special waste" pursuant to regulations adopted by the department that were in effect on August 21, 1998.

(3) Wastes disposed of pursuant to a variance issued to a state or local agency by the department pursuant to Section 25143 for the disposal of lead contaminated soil, if the disposal is only within the operating right-of-way of an existing highway, as defined in Section 23 of the Streets and Highways Code. This paragraph applies to lead-contaminated soil that is moved from one project to another only if the lead-contaminated soil remains within the designated, contiguously contaminated corridor and within the same transportation district for which the department has specifically issued the variance.

(d) This section does not exempt any state or local agency, or any other person, from any conditions or requirements of a California regional water quality control board, or any other agency, that may be placed on the reuse or disposal of waste pursuant to a variance issued by the department.

(e) This section shall remain in effect until July 1, 2006, and as of that date is repealed unless a later enacted statute repeals or extends that date.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within



the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to extend the operation of a prohibition on the disposal on land of lead, copper, and nickel except in accordance with specified provisions and in order for various state and transportation agencies to take advantage of the benefits of this act for the construction of freeway projects that have already been planned, designed, and funded as soon as possible, it is necessary for this act to take effect immediately.



Approved \_\_\_\_\_, 2001

\_\_\_\_\_  
*Governor*

